THE TRYAL AND Condemnation OF MERVIN,

Lord *Audley* Earl of *Castle-Haven.*

AT

Westminster, April the 5th 1631.

For Abetting a *Rape* upon his *Countess*, Committing *Sodomy* with his Servants, and Commanding and Countenancing the Debauching his Daughter.

With the Learned Speeches of the Lord *High-Steward*, the Arguments of the King's-Councel upon that occasion, and the Lord *Audley*'s Speech at the place of Execution.

LONDON,
Printed in the Year, 1699.

BIBLIOTHECA ROSARIANA

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THE PREFACE.

'TIS no less deplorable than wonderful, that in this Nation where the purest Religion is profess'd, and where Vice and Immorality are punish'd by severe Laws, Wickedness should ascend to such a height, as equals, if not exceeds, all the Barbarous Regions of the Earth. Time was, when gross enormities in this Island, like Batts *and* Owls *were obscur'd by Night and Darkness, and those that committed them were asham'd to own their Crimes, or suffer their Examples to infect the open Air. They were contented to go to Hell alone, without Usurping the Office of* Belzebub, *or loading their Souls with the Guilt of* Tempting *their incautious Brethren; but now the most* Scandalous, Inhuman, Unnatural, and Beastly Offences, *stalk abroad at Noon day, and he thinks himself a* Puny *in Wickedness, and*

ſcarce worth the Damning, *that can't boaſt of numbers of Souls that he has lead to Deſtruction.*

Raviſhing Women, *was a Crime rarely heard of among our Anceſtors, and though no Age has been ſo happy, but it has produced ſome* Monſters *in Morality, as well as Nature; yet now this Sin is grown ſo common, that ſcarce a* Seſſions *paſſes, wherein there is not one or more Convicted of* Rape, *and that in the moſt Scandalous manner too, upon the Bodies of meer Children.*

Nay, the Debauches of this Age have found out another way of Raviſhing Women, *and that is, of their* Honours *and* Reputations; *for where the* Villains *have impudently aſſaulted the* Chaſtity *of Vertuous Women, and have encountred nothing but* Scorns, *or the* Baſtinado *from a Foot-Man; there they'll be ſure to fix a Scandal, and boaſt of the Favours they ne'er received. Nay, a Fellow that has neither* Sence *in his Head,* Money *in Pocket, nor a* Tatter *to his Back, but what a* Louſe *wou'd break its Neck from, ſhall digniſie himſelf* Gallant *to perſons of the* Beſt Quality, *that ne'er could reach above the Rank of a* Dung-hill-raker.

Another Abomination that ſhocks our Natures, and puts our Modeſty to the Bluſh, to ſee it ſo commonly perpetrated, is the Deviliſh and Unnatural Sin of Buggery. *A Crime that ſinks a Man below the* Baſeſt *Epithet, is ſo* Foul *it admits of no Aggravation, and cannot be expreſs'd in its Horror, but by the* Doleful Shrikes and Groans of the Damned. *A Sin that caus'd God Almighty* Pluere Gehennam de Cœlo, *to Rain down Hell-Fire upon* Sodom *and* Gomorrah, *and turn a Fruitful and Pleaſant Country, into utter Barrenneſs and Deſolation.*

This Sin being now Tranſlated from the Sadomitical *Original, or from the* Turkiſh *and* Italian *Copies into* Engliſh; *not only in the Infamous Example of that Monſter* Ri---by, *and other Notorious* Sodomites; *but hearing alſo that there is at this time ſeveral taken up at* Windſor, *and others of the ſame Gang now Committed to* Newgate, *who were ingag'd in a more than Beaſt-like Confederacy among themſelves, for exerciſing this* Unnatural *Offence: I thought I could not more oblige the Publick, than (having this Tryal lying by me in an Old Manuſcript which was never yet Printed,) to Publiſh it at this Juncture, that by Reading the Sin, ſo Tragically Deline-*

ated

ated in its Horrid Shape, and ugly Visage, by the Grave and Learned Sages of the Law, and in the Death of a Noble Peer, other Men might be terrify'd, and scar'd from those Sins that are attended with nothing but Infamy and Death in this World, and Eternal Damnation in the next. And,

Now, seeing I have some Paper left, give me leave to tell the Miscreants of our unhappy Days, that the preceding Sins of Sodom, *which spaun'd the* Unnatural *Sin of* Buggery, were the same that now Reign among our *English* Debauche's, *and as they would avoid the Effects, so they ought to be careful in removing the Cause, or without the help of Prophecy, 'tis easie to foretel their Ruine.*

Pride, Luxury, *and* Irreligion, *were the Infernal Parents of* Sodomy, *and that of their Destruction: And he must have neither Eyes, nor Ears, that knows not how egregiously the same Vices Reign amongst us also.* Pride *is in its Achme, and nothing so much admir'd as* Ease *and* Softness, Courtship, Address, *and* Entertainment, *And that* Delicata Insania, *Effeminate Madness, has baniſh'd all manly Vertues. Instead of those Noble Characters*

racters of Vertue, Wisdom, and Courage, the great things in Vogue, and the only obtaining Bonne Graces, *are, that the Fop Eats and Drinks nicely, manages his Whore, his Snuff-Box, his Wigg, his Comb and Glass discreetly, mouths his Oaths finely, and handles his Knife and Fork to Admiration!*

But the great Qualification they Boast of, and which wholly imploys our Modern Wits, is in Belching out Blasphemy against the God that made them, and throwing bitter Scoffs and Prophane Jests upon Religion; *and having no other way to demonstrate their Courage, they shew it in this:* That they dare venture to be Damn'd to be accounted Contemptibly Witty. *But if they are not already so far sunk into* Beast, *as they have lost the benefit of* Thinking, *I wou'd faign stop their Career by a few Modest Questions*, viz. Whether they can the better indure Eternal Torment, because they don't believe them? *Or*, whether they can extinguish the Flames of Hell, by going Merily and Laughing thither? *You all know that* Ri---by's *other Heinous Crimes was Accompanied with horrid Blasphemy. See your Faces in his Glass at the* Bar, *on the* Pillory, *and the* Brink *of Hell, and if that will neither shame nor*

fright

fright you; let me beg the favour of you to leave the Kingdom, for that will be the best Office you ever did, or can do for England, *and the Obligation shall be gratefully acknowledg'd by*

Gentlemen,

(If it ben't a Shame

to Stile you so;)

Your Humble Servant,

The *Preface*r.

THE

THE TRYAL AND Condemnation OF *MERVIN TOUCHET*, Lord *Audley*, Earl of *Caſtle-Haven*, &c.

ON *Monday* the 25th of *April*, in the Year of our Lord 1631. About the Hour of Ten in the Morning, the Lord-Keeper *Coventry*, being by ſpecial Commiſſion Conſtituted Lord High-Ste-

ward of *England*, with twenty six of the Nobility came into *Westminster-Hall*, Attended by an Herald, and six Sergeants at Arms; And the Lord High-Steward being sat in a Chair of State, and the Peers on each side of a Table cover'd with Green Velvet, Proclamation was made for Silence.

Then Sir *Thomas Fanshaw* Clerk of the Crown, Read the Commission, and the Usher of the Black Rod kneeling before the Lord High-Steward presented his Lordship with a White Rod; After which a second Proclamation was made, Commanding all persons to keep to Silence, and the Lord High-Steward having desir'd the Peers of the Realm and the Privy Counsellers to be Covered, the Lords were call'd by their Names, as follow-eth,

Earl of *Portland* Lord Treasurer.	Earl of *Derby*.
Earl of *Dorset* and *Middlesex* Lord Chambl.	Earl of *Leicester*.
Earl of *Manchester* Lord Privy Seal.	Earl of *Salisbury*.
Earl of *Arundel* Lord Marshal.	Earl of *Holland*.
Earl of *Pembroke*.	Lord Viscount *Conway*.
Earl of *Kent*.	Lord Visc. *Wimbleton*.
Earl of *Essex*.	Lord Visc. *Wentworth*.
Earl of *Warwick*.	Lord Visc. *Dorchester*.
Earl of *Carlisle*.	Lord *Howard*.
Earl of *Bedford*.	Lord *Peircy*.
Earl of *Worcester*.	Lord *Strange*.
	Lord *Clifford*.
	Lord *North*.
	Lord *Peeters*.
	Lord *Goring*.

Judges

Judges Assisting at this Tryal.

Sir *Nicholas Hyde*, Lord Chief Justice of *England*, Sir *Thomas Littleton*, Lord Chief Justice of the Common Pleas, Sir *Humphrey Davenport*, Lord Chief Baron, Mr. Justice *Jones*, Mr. Justice *Whitlock*, Mr. Justice *Crook*, Mr. *Baron Denham*.

The King's Learned Counsel.

Mr. Sergeant *Crew*, Mr. Attorney General, Mr. Sollicitor General, Sir *John Finch*, Sir *Thomas Fanshaw* Clerk of the Crown, Mr. *Keeling*, with other Officers and Attendants.

The Lords having answer'd to their Names, the Lieutenant of the Tower was requir'd to bring forth his Prisoner, who was then in the Treasury Chamber, and from thence was Guarded into the Court by the Warders of the Tower, and being put into a place inclos'd for that purpose, cover'd with Blew Bays, and the Lieutenant of the Tower into another place adjoyning to it; the Prisoner having made his Complement to the Lord High-Steward, and the rest of the Noble Lords that were to Try him, the Lord High-Steward spake to him in these words.

My Lord,

The King's Majesty being inform'd by common Fame, and the Verdict of divers Gentlemen of Quality in the Country where you Live,

That you ſtand Impeach'd of ſeveral Great and Heinous Crimes, that the Truth of the Charge may be known, he has this day brought you to your Tryal, therein imitating the Almighty in the XVIIIth of *Geneſis*, *who came down to ſee if the Sins of the People were as Notorious as the Cry that was about them*; and truly the Kings of the Earth, can have no better Example than what has been given them by *the Great and all Wiſe King of Heaven*; and therefore our Sovereign who is *God's Vicegerent upon Earth*, has now brought you to Juſtice, and deſires that all proceedings ſhould be carried on with as much equality as the Rules of Equity and Juſtice themſelves have preſcribed. And becauſe (my Lords) the Crimes that will now be brought before you, are of ſuch a Horrid Nature, that may juſtly raiſe in ſome of your Lordſhips a Deteſtation, and in others Pity and Compaſſion. I adviſe you to lay aſide both theſe Conſiderations, and let your Reaſons and Conſciences ſway your Judgments, and your Heads direct your Hearts. My Lord *Audley*, I queſtion not but you are really ſatisfied (as well as I am my ſelf) that the Noble Peers here Aſſembled, have as much Juſtice in their Hearts as Noble Blood in their Veins, and ſince ſuch as they are to Try you, if you are Conſcious of your own Innocency, ſpeak without Fear; for if you are falſely Accuſed, thoſe that do it ſhall not eſcape an Exemplary Puniſhment; but if you know your ſelf Guilty, I adviſe you *to give Honour to God and the King, by Confeſſing your Faults*, for neither vain Confidence nor Subtlety can obſcure or prevail againſt the

Truth

Truth; and if that touches your Heart, *your own Conſcience will be a thouſand Witneſſes againſt you, and God alſo who is greater than them all.* Perſiſt not therefore in an Obſtinate denial of the Truth, for if you do, God will put it into'th Hearts of theſe Noble Lords to find it out, and to do what is Juſt in relation to the Puniſhment of the Crime. *Conſider of it, and the Lord Direct you.*

Lord Audley. My Lord, I have been ſix Months a Priſoner, under a cloſe Confinement, without the Advice of Friends or Counſel, and long Impriſonment has reduced me into a very weak Condition. When I was in my beſt ſtate of Health my Voice was very low, and therefore I deſire your Lordſhips will be pleas'd to allow me the liberty of Counſel to ſpeak for me.

Lord High-Steward. Your long Impriſonment has been a ſingular favour to you. You have had more time than ever any Peer had that was brought to this Bar. However, you ſhall ask nothing which the Law can give you, but it ſhall be freely granted to you, and therefore I will propound your Requeſt to the Judges, and leave them to give you ſatisfaction in it.

My Lords the Judges. Will the Law allow us to give my Lord *Audley* the liberty of Counſel to ſpeak for him? I ſhall be glad to have your Opinions in it.

Lord Chief Juſtice Hyde. In Criminal Cauſes Counſel cannot be allowed in matters of Fact; in matters of Law it may.

Lord

Lord Chief Baron. The Law is expreſs in this Caſe, and Counſel ought not to be granted.

Lord High-Steward. Read the Indictment.

Clerk of the Crown. *Mervin* Lord *Audley*, Thou art here Indicted, *&c.* for that thou and *Gyles Broadway*, Gen. both of *Fountain Gifford*, in the County of *Wilts*, *not having the Fear of God before your Eyes, but being moved and ſeduced by the Inſtigation of the Devil*, Did on the twentieth day of *June* in the Sixth Year of the Reign of our Sovereign Lord *Charles*, by the Grace of God, of *England*, *Scotland*, *France*, and *Ireland*, King, Defender of the Faith, *&c.* at *Fountain Gyfford* aforeſaid, in the County aforeſaid, did, by Force and Arms, *&c.* *In and upon* Ann *Lady* Audley, then being in the Peace of God and our Sovereign Lord the King, *Make an Aſſault*; *And the aforeſaid* Gyles Broadway, *the aforeſaid* Ann *Lady* Audley, *by Force and Arms againſt the Will of the ſaid* Ann, *then and there did violently, and Feloniouſly Raviſh, and the ſaid* Ann *then and there againſt her Will did Carnally know* againſt the Peace of our Sovereign Lord the King, his Crown and Dignity, and againſt the Statute in that Caſe made and provided; what ſayeſt thou *Mervyn* Lord *Audley*, art thou Guilty of the Rape of which thou ſtandeſt Indicted, or not Guilty?

Lord Audley. Not Guilty.

Clerk of the Crown. How will you be Tryed?

Lord Audley. By God and my Peers.

Then

Then the Clerk of the Crown Read another Indictment againſt the Lord *Audley* to this effect, *viz.* That he *Mervin* Lord *Audley*, *not having God before his Eyes, nor reſpecting the Order of Nature, but moved and ſeduced by the Inſtigation of the Devil*, the firſt of *June* in the Sixth Year of our Sovereign Lord *Charles*, &c. at *Fountain Gifford*, in the ſaid County of *Wilts*, in the Manſion Houſe of the ſaid Lord *Audley*, Did there by Force of Arms upon one *Florentius Fitz Patrick*, *Wickedly*, *Deviliſhly*, *Felonioufly*, *and contrary to Nature*, *exerciſe Venery*, *and the ſaid* Florentius Fitz Patrick, *then and there did Carnally know*, *and that Deteſtable*, *and Abominable*, *Sodomitical Sin called* Buggery, (not to be named among Chriſtians,) *Then and there with the ſaid* Florentius Fitz Patrick, *Deviliſhly*, *Felonioufly*, *and contrary to Nature did commit and perpetrate*, *to the great Diſpleaſure of Almighty God and Diſgrace of all Mankind*, and contrary to the Peace of our ſaid Sovereign Lord the King, his Crown and Dignity, and againſt the Statute in this Caſe made and provided, *&c.*

The like Indictment for *the ſame Offence*, *Committed with the ſame Perſon on the Tenth of* June *the ſame Year*, *at New Sarum*, in the Manſion Houſe of the Lord *Audley*, was alſo prefer'd, but not Read againſt him. All which Bills were found againſt the Priſoner, in a Court held by ſpecial Commiſſion (granted for that purpoſe,) at *New Sarum*, before *Edward Georges*, Sir *Thomas Richardſon*, Lord Chief Juſtice of the *King's-Bench*, Sir *Nicholas Hyde* Lord Chief Juſtice of the *Common-Pleas*, Sir *John Denham*,

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one of the Barons of the *Exchequer*, Sir *Edward Hungerford*, Sir *Walter Vaughan*, Sir *Lawrence Hyde*, Sir *Thomas Fanſhaw*, to them, or any three or more of them, to inquire into the matters of Fact as is before alledged.

To all which Indictments the Lord *Audley* having Pleaded *Not Guilty*, and put himſelf upon his Tryal; the Lord High-Steward deliver'd himſelf to the Lords as followeth.

My Lords,

The Priſoner is Indicted for Rape and Sodomy, by two Indictments, he has Pleaded *Not Guilty*; and 'tis my Duty to Charge your Lordſhips with the Tryal of it, and yours to Judge of it. The Matters of Fact are to be prov'd by Evidence, and your Lordſhips are to balance it. I have already obſerved to you, that probably this Cauſe may move ſome of you into Pity, and others into Deteſtation; but neither of theſe ought to be thrown into balance, ſince a Grain on either ſide may ſway the Scales; Therefore let Reaſon rule your Affections, and your Heads govern your Hearts; hear diligently, weigh matters equally, and then the Scale will lean on the right ſide. The Judges will aſſiſt your Lordſhips in point of Law, and therefore if any doubt ariſeth among you, you'll propound it to me, and I to them. In theſe proceedings your Lordſhips are not upon your Corporal Oaths, for the Law preſumes you of ſuch Honour and Integrity, that you will act as Juſtly without an Oath, as others under that Obligation; and for the ſame Reaſon the Law admits of no Challenges. God direct you to do it.

His

His Lordſhip having concluded, the King's Attorney General opened the Indictment in the following Words,

May it pleaſe your Grace my Lord High Steward; here are two Indictments againſt *Mervyn* Lord *Audley*, the firſt is for *Rape*, and the ſecond is for *Sodomy*; the Priſoner is Honourable, the Crimes of which he ſtands Indicted are foul and Diſhonourable, and if they ſhould be prov'd true, I dare be bold to ſay, *That never Poet invented, nor Hiſtorian related any thing ſo Odious, Inhuman, and abominable.* *Suetonius* has with Horror diſplay'd the Vices of ſome Heathen Emperors, that having ingroſs'd an abſolute power, were fearleſs of puniſhment, and ſhameleſs in committing abominable Enormites; yet no Author has produc'd a Man that ever equal'd, or came near the Crimes that this Lord is accus'd of. This is a Crime, to the Honour of our Nation be it ſpoken, *that is ſcarcely heard of in an Age*, and whenever it happens calls aloud for timely puniſhment, *that the Infection ſpread no farther, nor provoke Divine Vengeance to pour down the Vials of his wrath upon the whole Kingdom.* I can ſpeak it with great ſatisfaction, That in all King *James*'s Reign, and from his Majeſties firſt Acceſſion to the Crown, till now, I never heard the like occaſion to ſpeak againſt *a Peer of the Realm*; and as God knows I do it now with abundance of Regret, ſo I hope I ſhall never have the like occaſion to do it any more. His Majeſty who is your Pattern of Vertue, not only as a King, but in his perſonal Capacity, and of whom it is hard to ſay, whether

he excels moſt in Juſtice, or Mercy, (tho' I am inclin'd to believe 'tis in his Mercy) would have my Lord *Audley*, the Priſoner at the Bar, heard with as much favour as a Crime of that Horrid Nature will allow. When the Notice of this Crime came firſt to His Majeſty's knowledge, he was amazed, and gave ſtrick command that the Truth might appear, *and his Throne and People might be cleard from the Guilt of ſuch abominable impieties*; therefore the Priſoner was Indicted according to Law in his own Country, and by Gentlemen of known Worth and Integrity; *Billa Vera* being found againſt him, he is brought to this Bar to be Tryed by theſe Honourable Lords his Peers; of whoſe Wiſdom and Juſtice there can be no queſtion, and therefore we may expect the Event accordingly: Firſt I ſhall begin with the *Rape*.

Now *Rape* is defin'd to be *an Unlawful Carnal Knowledge, and Abuſe of a Woman by Force againſt her Will.* This was Felony by the Common Law, and tho' the Statute of *Weſtminſter*, 1. *Cap.* 13. leſſen'd it into a Miſdemeanor, yet it was ſoon after 13. *Ed.* 1. *C.* 34. made a Capital Offence without Clergy, agreeable to the Law of the Almighty Legiſlator, *Deut.* 22. and *Gen.* 34. and was accounted by our Fore-Fathers, ſo Deteſtable and Abominable a Crime, *Bracton*, *l.* 3. *p.* 147, that thoſe who were guilty of it, were puniſh'd *with the Loſs of their Eyes, and their Privy Members, that they might at once be deprived of the wicked Inlets, and Inſtruments of their Baſe and Unlawful Luſts*; but I ſhall not Tyre your Lord-

Lordships patience with Citing Authorities, nor inlarging upon the Hainousness of an Offence that admits of no aggravation, and therefore shall only mention three or four Rules in Law, relating to the present Case; the Truth of which I submit to the Opinions of my Lords the Judges.

First, *When any Offence is Felony, either by the Statute, or Common Law, all Accessaries before and after, are incidently included, so that if any be aiding, assisting, or abettiag any to do the Act, tho' the Offence be personal, and done by one only, as is in this Case, not only he that doth the Act is Principal, but also they that are present, Abetting, and Aiding the Misdoer, are Principals also.*

Secondly, *If the party on whom the Crimes was Committed, be notoriously Unchast, and a known Whore, yet there may be a Ravishment.*

Thirdly, In an Indictment of Rape, *there is no Limitation of time for the prosecution*; for *Nullum tempus occurrit Regi, no time occurs against, or prevents the King's Suit*; *but in case of an Appeal of Rape, if the Woman do not prosecute in Convenient time, it will bar her.*

Fourthly, *If a Man take away a Maid and Ravish her by Force, and afterward she gives her consent and Marries him that did the Act, yet it is a Rape.*

As for the *Crimen Sodomiticum*, in the second Indictment, I shall not Paraphrase upon it, since it is of so *abominable and Vile a Nature*, (that

(that as the Indictment truly expreſſes it, *Crimen inter Chriſtianos non nominandum*) *it is a Crime not to be named among Chriſtians*; and by the Law of God, as well as the Antient Laws of *England*, it was puniſh'd with Death. *Levit.* 20. *Fleta*, *l.* 6. *Cap.* 35. *Sodomitæ in terra vivi confodiantur: Sodomites are to be buried alive in the Earth*; or rather as ſome underſtand the Phraſe, be ſet deep and alive into a Pit dig'd for that purpoſe, with their heads above ground, till they are famiſh'd to Death, and this agrees with the *Mirror*, *Cap.* 4. The Statute of 25. *Hen.* 8. *Cap.* 6. made it *Felony* without Clergy, which tho' Repeal'd by 1. *Mar*, yet it was revived by the 5. *El. Cap.* 17. and is ſtil in Force.

As to this Indictment there is no other Queſtion, but whether it be *Crimen Sodomiticum penetratione*, whether he penetrated the Body, or not; to which I anſwer, the Fifth of *Elizabeth*, ſets it down in general Terms, and *ubi Lex non diſtinguit, ibi non diſtinguendum*; and I know you will be cautious how you give the leaſt Mittigation to ſuch abominable Sins; for when once a Man indulges his Luſt, and Prevaricates with his Religion, as my Lord *Audley* has done, by being a Proteſtant in the Morning, and a Papiſt in the Afternoon, no wonder if he commits the moſt abominable Impieties; for when Men forſake their God, 'tis no wonder he leaves them to themſelves.

But here I find things that exceed all imagination, and is what the Poet truly calls *imprincipiti vitium*, or meditated miſchiefs, for his

his ill inclinations were bent, to force his Wife to be naught againſt her own Inclinations, which the wickedeſt Man I ever heard of before would have Vertuous and Honeſt, how bad ſoever he is himſelf; but on the contrary, the Priſoner at the Bar tells his Wife, if ſhe loves him, ſhe muſt love *Antill* his Servant alſo; and to incline the Lady to lie with him, he fetcheth an argument from Scripture, and tells her, that her Body is his, and that ſhe is bound to obey his Commands; and if ſhe Sinned in obeying him, it was no fault of hers, but his own, and he would anſwer for it. He allowed this *Antill*, his vitious favorite, to ſpend Five Hundred Pounds a Year; but would not allow his Eldeſt Son One Hundred. If his Lady or Daughter wanted neceſſaries, they muſt lie with *Skipwith*, another of his Servants, before they could have Money to buy what they wanted, telling his Daughter he had rather ſhe ſhould have a Child by *Skipwith*, than any other perſon; but theſe things, my Lord, I had rather ſhould come out of the Mouths of the Witneſſes than from mine; therefore, pray *Cryer*, call *Walter Tyte*.

Cryer. *Vous avez Walter Tyte*, who being ſworn, the Attorny General ſaid.

Attorny General. *Walter Tyte*, Inform my Lord High Steward, and the reſt of theſe Noble Lords, the Conditions and Circumſtances of *Antill* and *Skipwith* before they came into my Lord *Audley*'s Service, and how my Lord *Audley* Preferr'd and Enrich'd them afterwards.

Walter Tyte. *Antill*, my Lord, was a Footman to Sir *Henry Smith*, and had not (as I verily believe) one Farthing when he came to my Lord, beſides the Cloaths on his back; he liv'd with my Lord as his Footman and Page ſeveral years; then he had Leave given him to keep Horſes in my Lord's Grounds, by which it was diſcours'd that, in a ſhort time, he got Two Thouſand Pounds. He never ſat at Table with my Lord, till he had Married my Lords Daughter, with whom he gave him to the Value of Seven Thouſand Pounds. *Henry Skipwith* was ſent by my Lord from *Ireland*, to be my Ladies Page; his Father and Mother was very poor people, yet he ſpent Five Hundred Pounds a Year of my Lord's Mony. He gave him at one time a Thouſand Pounds, and has ſince made over to him ſeveral parcels of Land, to the value of Two Hundred Pounds a Year.

Attorny General. Pray what Religion did my Lord profeſs.

Walter Tyte. At firſt every Body knows he was a Proteſtant; but after the buying of *Fountbill Houſe*, he turned to the Romiſh Religion, at the Inſtance of ſome Popiſh Gentlemen who were Neighbours.

Then the Lady *Audley* appearing as an Evidence, ſhe was Sworn, and the Attorney General ſaid to her.

Attorny General. Will your Ladyſhip be pleas'd to inform theſe Peers with the Real truth, concerning my Lords Vile, and unheard of Actions to your Ladyſhip?

Counteſs.

Counteſs. My Noble Lords, I ſhould be glad if a way might be found out, that I might deliver my Teſtimony in a Written Affidavit, and not by word of Mouth in this publick Audience.

Lord High Steward. I will propound it to the Judges, and if the Law will allow it, you ſhall be at your own Election. My Lords the Judges, you have heard what the Counteſs deſires of us; will you give your Opinions, and ſatisfie her Ladyſhip about it?

Lord Chief Juſtice Hyde. By the Law, the Teſtimony relating to matter of fact, that is, what relates to the Charge in the Indictment, muſt be made *Viva Voce*, and not otherwiſe; and the reaſon is, becauſe perſons may take a greater liberty of inſerting in an Affidavit, what is not really true; which the Awe of the Court, or asking apt Queſtions, may probably prevent, or diſcover the falſehood.

Lord High Steward. Your Ladyſhip I hope is ſatisfied with the Judges Opinion, and the Reaſons on which its grounded.

Counteſs. Why then my Lords, the firſt or ſecond Night after we were Married, *Antill* came to our Bed, and the Lord *Audly* talk'd laſciviouſly to me, and told me my Body was his, and if I lay with any Man with his conſent, 'twas not my fault, but his. He made *Skipwith* come naked into our Chamber and Bed; and took delight in calling up his Servants to ſhew their Nudities, and forc'd me

me to look upon them, and to commend those that had the longeſt. *Broadway*, a Servant of my Lord's, by his Lordſhips command, lay with me, and I making reſiſtance, my Lord *Audley* held my hands, and one of my Feet, and I would have kill'd my ſelf with a Knife afterwards, but he took it from me; before that Act of *Broadway*'s, I had never done it. He delighted to ſee the Act done, and made *Antill* come into the Bed to us, and lie with me in ſuch a manner, as he might ſee it, and though I cry'd out, he never regarded the complaint I made, but incouraged the Raviſher.

Attorny General. Pray Young Lady *Audley*, will you give my Lord High Steward, and theſe Lords an account, of your Fathers barbarous uſage of you!

I was Married to my Husband by a Romiſh Prieſt in the Morning, and at Night by a Prebend of *Killkenny*. I was firſt compell'd to lie with *Skipwith*, by the Earls perſwaſions and Threatnings, ſaying, I ſhould have nothing but what *Skipwith* gave me. He ſaw *Skipwith* and I lie together ſeveral times, and ſo did many Servants of the Houſe beſides. He tempted me to lie with others alſo, telling me, my Husband did not love me, and if I would not, he would tell my Husband I did lie with them. He uſed Oyl to enter my Body firſt, for I was then but Twelve Years of Age, and uſually lay with me by the Earls Privity and command.

The

The next Evidence that appear'd was Sworn, was *Broadway*, to whom the Solicitor General ſaid, *Broadway*, give a true account of what you know of my Lord *Audley*'s unnatural doings.

Broadway. I lay at his Lordſhips Beds Feet, and in the Night he call'd for ſome Tobacco, which, when I brought to him, he caught hold of me, and bid me come to Bed, which I at firſt deny'd, but at laſt conſented, and went into the Bed on the Lords ſide, but he turned me upon my Lady, and bid me lie with her; my Lord *Audley* held both her hands, and one of her Legs, and at laſt I lay with her, notwithſtanding her reſiſtance. The Lord *Audley* alſo us'd my Body as a Woman, but never Pierc'd it, only ſpent his Seed betwixt my Thighs. I have ſeen *Skipwith* lie with the young Lady in Bed, and when he got upon her, the Lord *Audley* ſtood by, and incourag'd him to get her with Child. He alſo made *Skipwith* lie with his own Lady, telling him he could not live long, and it might be the making of him, and the like he ſaid to me!

Lord High Steward. Pray Mr. *Attorney* let *Skipwith* be call'd, that we may hear what he can ſay?

Skipwith. For the moſt part I lay in Bed with the Earl. He gave me his Houſe in *Salisbury*, and a Mannor of Two Hundred and Sixty Pounds a Year. I lay with the young Lady very commonly, there being Love between us before and after. My Lord ſaid he had rather have a Boy of my getting than of any other. She was but twelve Years of Age when firſt I lay with her, and I could not enter her Body but by Art, and my Lord gave me things to open her Body.

Sir John Finch. Pray let *Fitz-Patrick* be call'd. Is your Name *Fitz-Patrick?*

Fitz-Patrick. Yes, Sir.

Sir John Finch. Well, be ſure you ſpeak the truth, and give theſe Lords the true, and whole Account, of what you know concerning the Charge againſt my Lord *Audley.*

Fitz-Patrick. *Henry Skipwith* was the great Favourite of my Lord *Audley*, he uſually lay in bed with him, and the Lord would make him lye with his own Lady, and with the young Lady his Daughter, and theſe things I ſaw ſeveral times, it being done in my Lords ſight alſo. My Lord made me lye with him at *Fount-hill* and *Salisbury*, and once ſpent his Seed, but did not penetrate my Body.

Body, and I understood he had often done the like with others. He kept a Woman in his House call'd *Blandina*, who was a Common Whore to his Lordship, and his Servants. His House was a Common *Brothel-House*, and the Earl himself took delight not only in being an Actor, but a Spectator while other Men did it. *Blandina* was once abused by himself and Servants, for the space of seven Hours together, until she got the *French* Pox.

Lord High-Steward. You Gentlemen of the King's Counsel, have you any more Witnesses to produce, if you have, pray be expeditious?

Mr. *Sergeant Crew.* My Lord, we have several more, and desire that *Frere* may be Examined.

Lord High-Steward. Where is he, call him.

Frere. Here, my Lord.

Lord High-Steward. Pray speak what you know about my Lord *Audley*; but be sure it be the Truth.

Frere. I only know that *Skipwith*, and the young Lady *Audley*, lay several times together while my Lord was present, and that he said he would feign have her have a Boy by him.

Attorney General. May it pleaſe your Grace, my *Lord High-Steward*, we have ſeveral Witneſſes more to produce, but their Teſtimonies being the ſame your Lordſhips have already heard, and what I humbly conceive is ſufficient to prove the Charge in the Indictment, againſt the Priſoner at the Bar, I ſhall give your Lordſhips no further trouble; but ſhall leave it to the clearneſs of the proofs which your Lordſhips have heard, for I know your Wiſdoms to be ſuch, that you know in ſo dark a buſineſs, a clearer proof can't be made; for Men though ne're ſo wicked, do not uſe to call Witneſſes to ſee it; I ſhall ſay no more but commit the whole to your Lordſhips Conſiderations.

Lord High-Steward. My Lord *Audley*, when I came firſt thither, I could not have believed there would have been ſuch manifeſt proofs, as you find has been produc'd of horrible Crimes againſt a perſon of your Honour. I ſhall give you all the liberty you can deſire in making your Defence, and therefore deſire to know what you have to ſay for your ſelf, in reference to what has been Sworn againſt you.

Lord

Lord Audley. I humbly thank your Grace for the favour you are pleaſed to grant me, though being no Scholar, nor learned in the Law, I have nothing to depend upon in my Defence, but my own Innocence, and your Lordſhips good Conſtruction of my weakneſs. My Lords, I muſt acknowledge that *Skipwith* was but poor when he came to me, that he lay with me ſeveral times, when I was ſtreightned for Room in my Houſe, and being a good Servant I gave him good Rewards. *Antil* I thought deſerved my Favour alſo, and therefore had my Conſent to Marry my Daughter, and I gave him a good Fortune with her.

Lord High-Steward. I adviſe you my Lord, not to deny what is plainly proved againſt you, leſt you give the Lords cauſe to ſuſpect the Truth of the reſt.

Lord Audley. My Wife has been a Whore, and has had a Child, which I conceal'd to ſave her Honour. She, and my Son, and one Mr. *William Wroughton*, have plotted againſt my Life, and all that's alledg'd againſt me is only their inventions, and gives a dangerous Example in the Kingdom; for no Peer,

or

or any other perſon, can be ſecure of his Life, that has (as I have,) a Wife who deſires a younger Husband, and a Son that is gaping after my Eſtate, and has the Devil and wicked Servants to aſſiſt their Maliee, in indeavouring to take away my Life wrongfully. This my Lords, is my Condition, and I hope your Lordſhips will take care, that you don't involve the Peers, the Gentry, and Commons, under a dangerous Preſident in my Condemnation; for, if a Wife of ſuch a Character, may be allowed to be a Witneſs againſt her Husband, no Man is ſafe, when his Wife diſlikes him, and would have a younger Husband.

Lord High-Steward. If your Lordſhip had proved a Conſpiracy to take away your Life, you had urged what had been material; but for want of proof it ſignifies nothing: However, I will propound your Objections to the Judges.

My Lords the Judges, Can a Rape be Committed againſt a Whore? And can a Wife be a Legal Witneſs againſt her Husband?

Lord Chief-Juſtice. If the Woman on whom the Crime is Committed, be a Whore, yet it may be a Raviſhment: And in Civil Cauſes a Wife can't be a Witneſs againſt her Husband, but in Criminal Cauſes ſhe may.

But, my Lord, what do you ſay to what theſe Fellows your Servants have Sworn againſt you?

Lord Audley. They are perſons of mean and baſe extraction, and ſuborn'd by my Wife and Son to take away my Life, and Witneſſes, according to Law, ſhould be honeſt Men, and of untainted Reputation, which theſe are not. *Fitz-Patrick* is a Recuſant, and therefore cannot be a Witneſs; beſides, I have often beat him for his Knavery and turn'd him away, and now he is hired by my Son to Swear againſt me.

To which the Judges anſwered, it did not appear he was Convicted of Recuſancy; that all are held Legal Evidences for the King, till they are Convicted of Crimes that may diſable them; and as to their Reputation, no Men of unſtain'd Credit, could be Witneſſes of ſuch monſtrous Inhumanities; beſides, what the Witneſſes have Sworn, has

has put their own Lives into the ſame danger with his Lordſhip's.

Lord Audley. My Lord, I deſire to know, whether the Statute intends that all kind of pollution, Man with Man, is *Buggery*, or not, ſeeing the Witneſſes ſay there was no penetration?

Lord High-Steward. My Lords the Judges, you hear the Lord *Audley*'s Query, pray give him your Opinions?

Lord Chief-Juſtice. It is *Buggery* by the Law; for the Law of this Land makes no diſtinction of *Buggery*, if there be *Emiſſio Seminis*.

Lord High-Steward. Are perſons of mean Extraction, and of no Eſtates, ſufficient Evidences againſt a Baron?

Lord Chief-Juſtice. Againſt any Man.

Lord High-Steward. Is a Man that is *Particeps Criminis*, a party in the Crime, a Legal Witneſs againſt the Accuſed?

Lord Chief-Juſtice. Yes, my Lord, for otherwiſe, Facts of this nature, would ſeldom or never be diſcovered, and till he is Attainted, he is (*Bonus & legalis Homo*) a Competent Evidence.

Then the Lords withdrew to conſider of the Evidence, and being return'd, the

the Lord *High-Steward* asked them one by one whether my Lord *Audley* was *Guilty* of the *Rape*, or *not Guilty*; and they *Seriatim* laying their Hands upon their Hearts, all answer'd *Guilty*. Then his Lordship ask'd them whether he was *Guilty* of *Sodomy*, or *not Guilty*; and fifteen of the six and twenty answer'd *Guilty*.

Then the Lieutenant of the *Tower* was Commanded to bring forth his Prisoner, and he being brought to the Bar, the Lord *High-Steward* spoke to him as followeth.

Lord High-Steward. *Mervyn* Lord *Audley*, you have been Indicted of two Heinous Crimes, *Rape*, and *Sodomy*; you have pleaded *not Guilty*, and put your self upon God, and your Peers, who have found you *Guilty of both*, and now my Heart grieves for what my Tongue must utter; but Justice is the way to cut off all Wickedness.

O think upon the Turpitude of your Offences, with an unfeigned Sorrow, and a Sincere Repentance; and as your Crimes have been Abominable, so let your Mortification for them be as remarkable. 'Tis not a slight and formal Contrition can obliterate your Of-

fences, for you have not only Sin'd againſt the Law of God and Nature, but againſt the Rage of Man, Jealouſie; and though you are not Condemn'd for that enormity, you caus'd your Daughter to be abuſed, and having Honour and Fortune to leave behind you, would have the ſpurious Iſſue of a Varlet to Inherit both. My *Lord*, I am ſorry to ſee you ſo unconcerned, and that you diſcover no ſigns of Sorrow, or Repentance, for the Crimes you have Committed. How are you obliged to bleſs God, that his Judgments did not ſeize and hurry you away, with the load of theſe Sins upon your Conſcience, and in the very Act of your Filthineſs; but has (I hope) reſerv'd you as a Subject of his Mercy, and when you were blinded in your Sins, has brought you to this day of Shame, that the ſight of them might turn you to him by Shame, Sorrow, and Repentance. Theſe, my *Lord*, are Arguments that invite you to lay hold of his Mercy, and ſecure a happy Eternity, and therefore I adviſe you, to improve this opportunity, and for the few Moments you have to Live, indeavour to waſh away

away your Crimes in Tears of true Repentance, for the many Crimes you have Committed; That the Sentence I am going to Pronounce, may prevent your dreadful Doom from God Almighty.

The SENTENCE. For as much as Thou *Mervyn* Lord *Audley*, haſt been Indicted of divers Fellonies, and by thy Peers haſt been found *Guilty* of them, thy SENTENCE therefore is, *That Thou return to the place from whence Thou cameſt, and from thence to the place of Execution, and there be Hang'd by the Neck, till thy Body be Dead.* And the Lord have Mercy on Thee.

The *Lord Audley* hearing his Sentence, fell upon his Knees, denied the Fact, and deſired the Lords to intercede with His Majeſty, to grant him a little time to reconcile himſelf to God; which their Lordſhips promiſed they would, and then the Court was diſſolved.

At the Interceſſion of the Lords, he had time given him by the King till *Saturday* the Fourteenth of *May*, and the SENTENCE was changed

into that of *Beheading*. His Coffin was ſent to him about a Week before his Death, and he was daily viſited by Dr. *Wickham*, Dean of S. *Paul's*, to prepare himſelf for his Diſſolution. The Day of his Execution being come, he aſcended a Scaffold on *Tower-Hill*, in a plain Black Grogram Suit, a falling Band, and a Black Hat without a Band; Accompanied by Dr. *Winnerf*, and Dr. *Wickham*, and ſeveral Noblemen and Gentlemen. Then he addreſs'd himſelf to Prayers, and having done, he ſtood upon his Legs, and leaning upon the two Deans, after a ſhort and private Conference with them, he turned to the Lords and ſpoke as follows.

I Thankfully acknowledge the great goodneſs of Almighty God, whoſe Divine Majeſty has beſtow'd upon me Honour, Riches, and other Endowments, which I have miſpent in a Vicious Life, and have juſtly deſerv'd Death, as the Reward of my Sins againſt God; but for the two Heinous Crimes for which I am now to Suffer, I deny them upon my Death, *and freely forgive all that have been any way acceſſary to it; even as heartily*

heartily as I desire Forgiveness at the Hands of God, which I hope to obtain through his Infinite Goodness and Mercy, and the assistance of your Prayers, which I humbly beg of your Lordships, and this whole Assembly.

It has been Reported to my Disadvantage, that I have been unsetled in my Religion, and therefore I have made a Confession of it to these two worthy Doctors, and have Publish'd it in Print under my Hand a Week since, and do now again Renounce all the Errors and Superstitions Taught by the Church of Rome, or any other Church; and declare my self a Member of the Church of England, and stedfastly Believe all the Articles of that Church, as they are confirmed by Authority of Parliament.

Having thus acquainted you with the Articles of my Faith, I must next acknowledge the great Justice and Mercy of the King's Majesty. His Justice in bringing me to a Tryal, and his Mercy in appointing me to be Tryed by such Noble Peers, and in assigning me this kind of Death, rather than that pronounc'd in my Sentence; but above all, for giving me so long a time to repent

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in, and ſending theſe two worthy Divines to aſſiſt me; for I hope, nay, can ſpeak it to my Comfort, that I have made ſuch good uſe of theſe Favours, that I am fully prepar'd to Die, and before you all give my hearty Thanks to theſe two good Men, for the great pains they have taken in coming to me, praying for me, and Preaching and Reading to me; and I deſire your Lordſhips will give my humble Thanks to the King for ſending them to me, and for all the reſt of his Favours; for which I pray God to Bleſs His Majeſty, the Queen, the young Prince, the King and Queen of Bohemia, *and all the Royal Family. And now my Lords, and all you who are Spectators, I humbly requeſt you that you would remove your Eyes from me, and your Thoughts from what I am to ſuffer, and lift up your Eyes, your Hands, and your Hearts, to Heaven in Prayer for me; and ſo I take my laſt Farewell of your Lordſhips, and all the World.*

After this, his Lordſhip betook himſelf to his private Prayers, and then undreſt, and prepar'd himſelf to receive the Fatal Stroke: Then taking leave again of the Lords and Doctors, he prayed a while by himſelf, pull'd his Hanker-

Hankerchief over his Face, laid his Neck upon the Block, and having given the *Sign*, the Executioner at one Blow, divided his Head from his Body.

FINIS.